

1-25-1984

Agricultural Labor-Management Relations Act.

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Office of the Secretary of State
March Fong Eu

1230 J Street
Sacramento, California 95814

Elections Division
(916) 445-0820

July 3, 1984

TO: ALL REGISTRARS OF VOTERS/COUNTY CLERKS/PROPONENT (8403)
FROM: *Deborah Seiler*
DEBORAH SEILER
ASSISTANT TO THE SECRETARY OF STATE
ELECTIONS AND POLITICAL REFORM

Pursuant to Elections Code 3520(b) you are hereby notified that the total number of signatures to the hereinafter named proposed INITIATIVE STATUTE filed with all county clerks is less than 100 percent of the number of qualified voters required to find the petition sufficient; therefore, the petition has failed.

TITLE: AGRICULTURAL LABOR-MANAGEMENT RELATIONS ACT.
INITIATIVE STATUTE.

SUMMARY DATE: January 25, 1984

PROPONENT: James Wiley Nielsen

DS/ljs



Office of the Secretary of State
March Fong Eu

1230 J Street
Sacramento, California 95814

Elections Division
(916) 445-0820

0346

January 25, 1984

TO ALL REGISTRARS OF VOTERS, OR COUNTY CLERKS, AND PROPONENT

Pursuant to Section 3513 of the Elections Code, we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed Initiative Measure entitled:

**AGRICULTURAL LABOR-MANAGEMENT RELATIONS ACT.
INITIATIVE STATUTE**

Circulating and Filing Schedule

1. Minimum number of signatures required 393,835
Cal. Const., Art. II, Sec. 8(b).
2. Official Summary Date Wednesday, 1/25/84
Elec. C., Sec. 3513.
3. Petition Sections:
 - a. First day Proponent can circulate Sections for signatures . . Wednesday, 1/25/84
Elec. C., Sec. 3513.
 - b. Last day Proponent can circulate and file with the county.
All Sections are to be filed at the same time within each
county. Monday, 6/25/84*+
Elec. C., Secs. 3513, 3520(a).
 - c. Last day for county to determine total number of signatures
affixed to petition and to transmit total to the Secretary of
State Monday, 7/2/84

(If the Proponent files the petition with the county on a date prior to 6/25/84, the county has five working days from the filing of the petition to determine the total number of signatures affixed to the petition and to transmit the total to the Secretary of State.) Elec. C., Sec. 3520(b).

* Date adjusted for official deadline which falls on Saturday. Elec. C., Sec. 60.

+ **PLEASE NOTE:** To the Proponent who may wish to qualify for the 1984 General Election. The law allows up to approximately 58 days to county election officials for checking and reporting petition signatures and transmitting results. The law also requires that this process be completed 131 days before the election in which the people will vote on the initiative. It is possible that the county may not need precisely 58 days. But if you want to be sure that this initiative qualifies for the 1984 General Election, you should file this petition with the county before May 1, 1984.

d. Secretary of State determines whether the total number of signatures filed with all county clerks meets the minimum number of required signatures, and notifies the counties. Wednesday, 7/4/84**

e. Last day for county to determine total number of qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State Thursday, 7/19/84

(If the Secretary of State notifies the county to determine the number of qualified voters who signed the petition on a date other than 7/2/84, the last day is not later than the fifteenth day after county's receipt of notification.)
Elec. C., Sec. 3520(d), (e).

f. If the signature count is more than 433,218 or less than 354,452, then the Secretary of State certifies the petition has qualified or failed, and notifies the counties. If the signature count is between 354,452 and 433,218 inclusive, then the Secretary of State notifies the counties using the random sampling technique to determine the validity of all signatures Saturday, 7/21/84**

g. Last day for county to determine actual number of all qualified voters who signed the petition, and to transmit certificate with a blank copy of the petition to the Secretary of State Monday, 8/20/84

(If the Secretary of State notifies the county to determine the number of qualified voters who have signed the petition on a date other than 7/19/84, the last day is not later than the thirtieth day after county's receipt of notification.)
Elec. C., Sec. 3521(b), (c).

h. Secretary of State certifies whether the petition has been signed by the number of qualified voters required to declare the petition sufficient. Wednesday, 8/22/84**

AGRICULTURAL LABOR-MANAGEMENT
RELATIONS ACT.

January 25, 1984

Page 3

4. Campaign Statements:

Last day for the Proponent to file a Campaign
Statement of Receipts and Expenditures for period
ending 7/23/84. Monday, 7/30/84

(If the Secretary of State finds that the measure has
either qualified or failed to qualify on a date earlier
than 6/25/84, the last date to file is the 35th calendar
day after the deadline for filing petitions or the date of
notification by the Secretary of State that the measure
has either qualified or failed to qualify, whichever is
earlier. The closing date for the campaign statement
is seven days prior to the filing deadline.)
Gov. C., Secs. 84200(d), 84202(j).

5. The Proponent of the above named measure is:

James Wiley Nielsen
1742 Brown Avenue
Woodland, CA 95695
(916) 445-3353

Sincerely,



DEBORAH SEILER
Assistant to the Secretary of State
Elections and Political Reform

NOTE TO PROPONENT: Your attention is directed to Elections Code
Sections 41, 44, 3501, 3507, 3508, 3516, 3517, and 3519 for appropriate
format and type considerations in printing, typing, and otherwise preparing
your initiative petition for circulation and signatures. Your attention is
further directed to the campaign disclosure requirements of the Political
Reform Act of 1974, Government Code Section 81000 et seq.

JOHN K. VAN DE KAMP
Attorney General

0346
State of California
DEPARTMENT OF JUSTICE



1515 K STREET, SUITE 511
SACRAMENTO 95814
(916) 445-9555

January 25, 1984

Honorable March Fong Eu
Secretary of State
1230 J Street
Sacramento, California 95814

FILED
In the office of the Secretary of State
of the State of California

JAN 25 1984

MARCH FONG EU, Secretary of State

By *[Signature]*
Deputy

Dear Mrs. Eu:

Re: Initiative Title and Summary.
Our File No. SA83RF0034

Pursuant to the provisions of section 3503 and 3513 of the Elections code, you are hereby notified that on this day we mailed to the proponent(s) of the above identified proposed initiative our title and summary.

Enclosed is a copy of our transmittal letter to the proponent(s), a copy of our title and summary, a declaration of mailing thereof, and a copy of the proposed measure.

According to information available in our records, the name(s) and address(es) of the proponent(s) is as stated on the declaration of mailing.

Very truly yours,

JOHN K. VAN DE KAMP
Attorney General

[Signature]

Robert Burton
Deputy Attorney General

Enclosure

(RF-10, 6/83)

Date: January 25, 1984
File No.: SA83RF0034

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

AGRICULTURAL LABOR-MANAGEMENT RELATIONS ACT. INITIATIVE STATUTE. Repeals present Agricultural Labor Relations Act (ALRA). Enacts new ALMRA statute, which changes manner in which agricultural labor relations are regulated. Measure's stated purpose---to conform the state act to the federal National Labor Relations Act, providing that specified federal precedents be followed in judicial and administrative interpretations. Changes from current law include, among others, allowing ALMRB discretion in timing employee representation elections, defining labor contractors as employers, limiting secondary boycotts, limiting make whole remedy against employers, redefining union membership obligation requirements, and modifying administrative and other procedures used. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: At present, the state spends approximately \$7 million to administer the provisions of the ALRA. This initiative would increase these costs, based on provisions which require the Agricultural Labor Relations Board to: (1) Determine on a case-by-case basis that bargaining units are "appropriate" (Existing law establishes a single bargaining unit for all agricultural employees of an agricultural employer.); (2) Hold additional elections--at the request of not less than 30 percent of the affected workers--to rescind organizational security arrangements that have been negotiated by the union and the employer (There are currently no such elections under the ALRA.); and (3) Investigate and prosecute additional unfair labor practice charges in cases where unions are accused of violating the initiative's more restrictive secondary boycott language. The initiative also has provisions which would result in decreased costs. For example, a provision eliminating the need to hold hearings to determine the proper penalties for make whole remedies in cases where employers fail to bargain in good faith would reduce workload and costs. Overall, the increased costs of the initiative would probably exceed savings, by an unknown amount, primarily because of the major revisions of the ALRA election procedures.

FULL TEXT OF INITIATIVE

CHAPTER 1. GENERAL PROVISIONS -- DEFINITIONS

1140. It is the intent of the people of California and the purpose of this part to conform the law of this state regulating relations between employees and employers in agriculture to federal law regulating relations between employees and employers in other industries in order that all employees and employers in the private sector in this state may be treated similarly, without regard to the industry in which they are employed or engaged.

In effectuating the provisions of this part, it is recognized that the former "Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975", was drafted and interpreted in such a manner that agricultural labor relations were controlled by a law significantly different than the federal law, which governs labor relations in private industry throughout the United States. Therefore, it is the intent of the people of California that the enactment of this part should result in strict conformity with the Labor Management Relations Act of 1947 as amended (Chapter 7 of Title 29 of the United States Code). And, it heretofore is the policy of the State of California that judicial and administrative interpretation of this part shall follow the precedent developed under federal law so that the case law, policies, practices and remedies effectuated in the private sector shall be utilized in California agriculture; and, further, that the policies enumerated herein shall not be countervailed by the establishment of case law or the promulgation of regulations.

1141. (a) This part may be cited as the "Agricultural Labor-Management Relations Act".

(b) Industrial strife can be avoided or substantially minimized if employers, employees, and labor organizations each recognize under law one another's legitimate rights in their relations with each other and, above all, recognize under law that neither party has any right in its relations with any other to engage in acts or practices which jeopardize the public health, safety, or interest.

The purposes and policies of this Act are as follows:

(1) To prescribe the legitimate rights of both employees and employers in their relations.

(2) To provide orderly and peaceful procedures for preventing the interference by either with the legitimate rights of the other.

(3) To protect the rights of individual employees in their relations with labor organizations.

(4) To define and proscribe practices on the part of labor and management which are inimical to the general welfare.

(5) To protect the rights of the public in connection with labor disputes.

1142. The denial by some employers of the right of employees to organize and the refusal by some employers to accept the procedure of collective bargaining lead to strikes and other forms of industrial strife or unrest.

The inequality of bargaining power between employees who do not possess full freedom of association or actual liberty of contract and employers who are organized in the corporate or other forms of ownership association tends to aggravate recurrent business depressions by depressing wage rates and the purchasing power of wage earners in the agricultural industry and by preventing the stabilization of competitive wage rates and working conditions within the agricultural industry.

Experience has proved that protection by law of the right of employees to organize and bargain collectively removes certain recognized sources of industrial strife and unrest, encourages practices fundamental to the friendly adjustment of industrial disputes arising out of differences as to wages, hours, or other working conditions, and restores equality of bargaining power between employers and employees.

Experience has further demonstrated that the elimination of certain practices by some labor organizations, their officers, and members is a necessary condition to the assurance of the rights herein guaranteed.

It is declared to be the policy of this state to encourage the practice and procedure of collective bargaining and protect the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection.

1143. The following definitions shall govern the construction of this Act:

(a) "Person" includes one or more individuals, labor organizations, partnerships, associations, corporations, legal representatives, trustees, trustees in cases under Title 11 of the United States Code, or receivers.

(b) "Agricultural employer" means any person who employs agricultural employees and includes any person acting as an agent of an employer, directly or indirectly. Such term shall not include the United States or any wholly owned government corporation, or any Federal Reserve Bank, the state or any political subdivision thereof, or any person subject to the Railway Labor Act, as amended from time to time, or any labor organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of such labor organization.

(c) "Agricultural employee" means any agricultural laborer within the meaning of subdivision (3) of Section 152 of Title 29 of the United States Code and shall not be limited to the employees of a particular employer, unless this chapter explicitly states otherwise, and shall include any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice, and who has not obtained any other regular and substantially equivalent employment but shall not include any individual employed in the domestic service of any family or person at his home, or any individual employed by his parent or spouse, or any individual having the status of an independent contractor, or any individual employed as a supervisor,

or any individual employed by an employer subject to the Railway Labor Act, as amended from time to time, or by any other person who is not an employer as herein defined.

Further, nothing in this part shall apply, or be construed to apply, to any employee who performs work to be done at the site of the construction, alteration, painting, or repair of a building, structure, or other work (as these terms have been construed under Section 8(e) of the Labor Management Relations Act, 29 U.S.C. Section 158(e) or logging or timber-clearing operations in initial preparation of land for farming, or who does land leveling or only land surveying for any of the above.

As used in this subdivision, "land leveling" shall include only major land moving operations changing the contour of the land, but shall not include annual or seasonal tillage or preparation of land for cultivation.

(d) "Representative" includes any individual or labor organization.

(e) "Labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(f) "Unfair labor practice" means any unfair labor practice listed in Section 1151.

(g) "Labor dispute" includes any controversy concerning terms, tenure or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee.

(h) "Board" means the Agricultural Labor Relations Board provided for in Section 1146.

(i) "Supervisor" means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature but requires the use of independent judgment.

(j) "Professional employee" means both of the following:

(1) Any employee engaged in work (A) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; (B) involving the consistent exercise of discretion and judgment in its performance; (C) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; (D) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in

the performance of routine mental, manual, or physical processes.

(2) Any employee who (A) has completed the courses of specialized intellectual instruction and study described in subparagraph (D) of paragraph (1) and (B) is performing related work under the supervision of a professional person to qualify himself to become a professional employee as defined in paragraph (1).

(k) In determining whether any person is acting as an "agent" of another person so as to make such other person responsible for his acts, the question of whether the specific acts performed were for his acts, the question of whether the specific acts performed were actually authorized or subsequently ratified shall not be controlling.

(l) "Strike" includes any strike or other concerted stoppage of work by employees (including a stoppage by reason of the expiration of a collective bargaining agreement) any any concerted slowdown or other concerted interruption of operations by employees.

(m) "LMEA" means the Labor-Management Relations Act of 1947, as amended (Chapter 7 of Title 29 of the United States Code).

(n) "NLRB" means the National Labor Relations Board.

1144. (a) Nothing in this part shall be construed to require an individual employee to render labor or service without his consent, nor shall anything in this part be construed to make this quitting of his labor by an individual employee an illegal act.

(b) No court shall issue any process to compel the performance by an individual employee of labor or service without his consent.

(c) The quitting of labor by an employee or employees in good faith because of abnormally dangerous conditions for work at the place of employment of such employee or employees shall not be deemed a strike as defined herein.

(d) If any provision of this Act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

1145. In interpreting and applying the provisions of this Act, the Agricultural Labor Relations Board, its general counsel, executive secretary, attorneys, administrative law officers, regional directors, officers and agents, and, to the extent permitted by the California Constitution, all courts of this state, shall have a continuing mandatory duty to follow, without regard to their procedural or substantive nature, in the hierarchy indicated by the order of their enumeration here and within each level of such hierarchy in reverse chronological order without regard to the effective date of this part, the following:

(a) Decisions of the United States Supreme Court interpreting or applying the LMRA as of the date of enactment of this part.

(b) Decisions of the United States Court of Appeals for the Ninth Circuit interpreting or applying the LMRA.

(c) Decisions of the NLRB interpreting or applying the LMRA.

(d) Rules and Regulations of the NLRB adopted pursuant to the LMRA.

The performance of the foregoing mandatory duty shall not be excused on account of any differences between conditions in agriculture and conditions in industries regulated by the LMRA.

CHAPTER 2. AGRICULTURAL LABOR RELATIONS BOARD

1146. (a) The Agricultural Labor Relations Board, created by the Alatoree-Zenovich-Dunlap-Berman Agricultural Relations Act of 1975, is hereby continued as an agency of the state. The board shall consist of five members, appointed by the Governor by and with the advice and consent of the Senate. The present members shall continue to serve until the expiration of their terms. Their successors shall be appointed for terms of five years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed.

The Governor shall designate one member to serve as chairman of the board. Any member of the board may be removed by the Governor, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason.

(b) The board may delegate to any group of three or more members any or all of the powers which it may itself exercise. The board may also delegate to its regional directors its powers under Section 1152 to determine the unit appropriate for the purpose of collective bargaining, to investigate and provide for hearings and determine whether a question of representation exists, and to direct an election or take a secret ballot under subdivision (c) or (e) of Section 1152 and certify the results thereof, except that upon the filing of a request therefor with the board by any interested person, the board may review any action of a regional director delegated to him under this paragraph, but such a review shall not, unless specifically ordered by the board, operate as a stay of any action taken by the regional director.

A vacancy in the board shall not impair the right of the remaining members to exercise all the powers of the board, and three members of the board shall, at all times, constitute a quorum of the board, except that two members shall constitute a quorum of any group designated pursuant to the first sentence of this subdivision. The board shall have an official seal which shall be judicially noticed.

(c) The board shall, at the close of each fiscal year, make a report in writing to the Legislature and to the Governor stating in detail the cases it has heard, the decisions it has rendered, and an account of all moneys it has disbursed.

1147.1. There shall be a general counsel of the board who shall be appointed by the Governor, subject to confirmation by a

majority of the Senate, for a term of four years. The general counsel shall have the power to appoint such attorneys, administrative assistants, and other employees as necessary for the proper exercise of his duties. The general counsel of the board shall exercise general supervision over all attorneys employed by the board (other than administrative law officers and legal assistants to board members) and over the officers and employees in the regional offices. He shall have final authority, on behalf of the board, with respect to the investigation of charges and issuance of complaints under Chapter 6 (commencing with Section 1153) of this part and with respect to the prosecution of such complaints before the board. He shall have sole authority to resolve issues contained in board decisions or orders, subject to the approval of the board. He shall have such other duties as the board may prescribe or as may be provided by law. All employees appointed by the general counsel shall perform their duties in an objective and impartial manner without prejudice toward any party subject to the jurisdiction of the board. In case of a vacancy in the office of the general counsel, the Governor is authorized to designate the officer or employee who shall act as general counsel during such vacancy, but no person or persons so designated shall so act either (1) for more than 40 days when the Legislature is in session, unless a nomination to fill such vacancy shall have been submitted to the Senate, or (2) after the adjournment sine die of the session of the Senate in which such nomination was submitted.

1147. (a) Each member of the board and the general counsel shall be eligible for reappointment and shall not engage in any other business, vocation, or employment. The board shall appoint an executive secretary and such attorneys, administrative law officers, and regional directors, and such other agents as it may from time to time find necessary for the proper performance of its duties. The board may not employ any attorneys for the purpose of reviewing transcripts of hearings or preparing drafts of opinions, except that any attorney employed for assignment as a legal assistant to any board member may for such board member review such transcripts and prepare such drafts.

No administrative law officer's report shall be reviewed, either before or after its publication, by any person other than a member of the board or his legal assistant, and no administrative law officer shall advise or consult with the board with respect to exceptions taken to his findings, rulings, or recommendations. The board may establish or utilize such regional, local, or other agencies, and utilize such voluntary and uncompensated services, as may from time to time be needed. Attorneys appointed under this section may, at the direction of the board, appear for and represent the board in any case in court. Nothing in this part shall be construed to authorize the board to appoint individuals for the purpose of conciliation or mediation, or for economic analysis.

(b) The annual salary of a member of the board shall be forty-two thousand five hundred dollars (\$42,500).

1148. The principal office of the board shall be in the

City of Sacramento, but it may meet and exercise any or all of its powers at any othe place. The board may, by one or more of its members or by such agents or agencies as it may designate, prosecute any inquiry necessary to its functions in any part of the state. A member who participates in such an inquiry shall not be disqualified from subsequently participating in a decision of the board in the same case.

1149. The board shall have authority from time to time to make, amend, and rescind, in the manner prescribed by Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, such rules and regulations as may be necessary to carry out the provisions of this part to the extent not inconsistent with the provisions of this part.

CHAPTER 3. RIGHTS OF EMPLOYEES

1150. Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection and shall also have the right to refrain from any or all of such activities, except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in Section 1151(a)(3).

CHAPTER 4. UNFAIR LABOR PRACTICES

1151. (a) It shall be an unfair labor practice for an employer to do any of the following:

(1) To interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in Section 1150.

(2) To dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it. However, subject to rules and regulations made and published by the board pursuant to Section 1149, an employer shall not be prohibited from permitting employees to confer with him during working hours without loss of time or pay.

(3) By discrimination in regard to hire or tenure of employment or any term or condition of employment, to encourage or discourage membership in any labor organization. However, nothing in this chapter, or in any other statute of the state, shall preclude an employer from making an agreement with a labor organization (not established, maintained, or assisted by any action defined in this subdivision as an unfair labor practice) to require, as a condition of employment, membership therein on or after the 30th day following the beginning of such employment or the effective date of such agreement, whichever is the later, (A) if such labor organization is the representative of the employees as provided in subdivision (a) of Section 1152 in the appropriate

collective bargaining unit covered by such agreement when made, and (B) unless, following an election held as provided in subdivision (e) of Section 1153 within one year preceding the effective date of such agreement, the board shall have certified that at least a majority of the employees eligible to vote in such election have voted to rescind the authority of such labor organization to make such an agreement.

However, no employer shall justify an discrimination against an employee for non-membership in a labor organization (a) if he has reasonable grounds for believing that such membership was not available to the employee on the same terms and conditions generally applicable to other members, or (b) if he has reasonable grounds for believing that membership was denied or terminated for reasons other than the failure of the employee to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership.

(4) To discharge or otherwise discriminate against an agricultural employee because he has filed charges or given testimony under this chapter.

(5) To refuse to bargain collectively with the representatives of his employees, subject to the provisions of Section 1152(a).

(b) It shall be an unfair labor practice for a labor organization or its agents to do any of the following:

(1) To restrain or coerce (A) employees in the exercise of the rights guaranteed in Section 1150, provided that this paragraph shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein; or (B) an employer in the selection of his representatives for the purpose of collective bargaining or the adjustment of grievances.

(2) To cause or attempt to cause an employer to discriminate against an employee in violation of paragraph (3) of subdivision (a) or to discriminate against an employee with respect to whom membership in such organization has been denied or terminated on some ground other than his failure to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership.

(3) To refuse to bargain collectively with an employer, provided it is the representative of his employees, subject to the provisions of subdivision (a) of Section 1152.

(4) (A) To engage in, or to induce or encourage any individual employed by any person to engage in, a strike or a refusal in the course of his employment to use, manufacture, process, transport, or otherwise handle or work on any goods, articles, materials, or commodities or to perform any services; or

(B) To threaten, coerce, or restrain any person where in either case an object thereof is any of the following:

(i) Forcing or requiring any employer or self-employed person to join any labor or employer organization or to enter into any agreement which is prohibited by subdivision (e).

(ii) Forcing or requiring any person to cease using, selling, handling, transporting, or otherwise

dealing in the products of any other producer, processor, or manufacturer, or to cease doing business with any other person, or forcing or requiring any other employer to recognize or bargain with a labor organization as the representative of his employees, unless such labor organization has been certified as the representative of such employees under the provision of Section 1152. However, nothing contained in this clause shall be construed to make unlawful, where not otherwise unlawful, any primary strike or primary picketing.

(iii) Forcing or requiring any employer to recognize or bargain with a particular labor organization as the representative of his employees if another labor organization has been certified as the representative of such employees under the provisions of Section 1152.

(iv) Forcing or requiring any employer to assign particular work to employees in a particular labor organization or in a particular trade, craft, or class rather than to employees in another labor organization or in another trade, craft, or class, unless such employer is failing to conform to an order or certification of the board determining the bargaining representative for employees performing such work.

Nothing contained in this subdivision shall be construed to make unlawful a refusal by any person to enter upon the premises of any employer (other than his own employer), if the employees of such employer are engaged in a strike ratified or approved by a representative of such employees whom such employer is required to recognize under this chapter. For the purposes of this paragraph only, nothing contained in this paragraph shall be construed to prohibit publicity, other than picketing, for the purpose of truthfully advising the public, including consumers and members of a labor organization, that a product or products are produced by an employer with whom the labor organization has a primary dispute and are distributed by another employer, as long as such publicity does not have an effect of inducing any individual employed by any person other than the primary employer in the course of his employment to refuse to pick up, deliver, or transport any goods, or not to perform any services, at the establishment of the employer engaged in such distribution.

(5) To require of employees covered by an agreement authorized under paragraph (3) of subdivision (a) the payment, as a condition precedent to becoming a member of such organization, of a fee in an amount which the board finds excessive or discriminatory under all the circumstances. In making such a finding, the board shall consider, among other relevant factors, the practices and customs of labor organizations in the particular industry and the wages currently paid to the employees affected.

(6) To cause or attempt to cause an employer to pay or deliver, or agree to pay or deliver, any money or other thing of value, in the nature of an exaction, for services which are not performed or not to be performed.

(7) To picket or cause to be picketed, or threaten to picket or cause to be picketed, any employer where an object thereof is forcing or requiring an employer to recognize or bargain

with a labor organization as the representative of his employees, or forcing or requiring the employees of an employer to accept or select such labor organization as their collective bargaining representative, unless such labor organization is currently certified as the representative of such employees under any of the following circumstances:

(A) Where the employer has lawfully recognized in accordance with this chapter any other labor organization and a question concerning representation may not appropriately be raised under subdivision (c) of Section 1152.

(B) Where, within the preceding 12 months, a valid election under subdivision (c) of Section 1152 has been conducted.

(C) Where such picketing has been conducted without a petition under subdivision (c) of Section 1152 being filed within a reasonable period of time not to exceed 30 days from the commencement of such picketing. However, when such a petition has been filed, the board shall forthwith, without regard to the provisions of Section 1152 or the absence of a showing of a substantial interest on the part of the labor organization, direct an election in such unit as the board finds to be appropriate and shall certify the results thereof. Nothing in this subparagraph (C) shall be construed to prohibit any picketing or other publicity for the purpose of truthfully advising the public (including consumers) that an employer does not employ members of, or have a contract with, a labor organization, unless an effect of such picketing is to induce any individual employed by any other person in the course of his employment, not to pick up, deliver or transport any goods or not to perform any services.

Nothing in this paragraph shall be construed to permit any act which would otherwise be an unfair labor practice under this subdivision.

(c) The expressing of views, argument, or opinion, or the dissemination thereof, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice under any of the provisions of this part, if such expression contains no threat of reprisal or force or promise of benefit.

(d) For the purposes of this section, to bargain collectively is the performance of the mutual obligation of the employer and the representative of the employees to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written contract incorporating any agreement reached if requested by either party, but such obligation does not compel either party to agree to a proposal or require the making of a concession. Where there is in effect a collective bargaining contract, the duty to bargain collectively shall also mean that no party to such contract shall terminate or modify such contract unless the party desiring such termination or modification does all of the following:

(1) Serves a written notice upon the other party to the contract of the proposed termination or modification

60 days prior to the expiration date thereof or, in the event such contract contains no expiration date, 60 days prior to the time it is proposed to make such termination or modification.

(2) Offers to meet and confer with the other party for the purpose of negotiating a new contract or a contract containing the proposed modifications.

(3) Notifies the Conciliation Service of the State of California within 30 days after such notice of the existence of a dispute, provided no agreement has been reached by that time.

(4) Continues in full force and effect, without resorting to strike or lock-out, all the terms and conditions of the existing contract for a period of 60 days after such notice is given or until the expiration date of such contract, whichever occurs later.

The duties imposed upon employers, employees and labor organizations by paragraphs (2), and (3), and (4) shall become inapplicable upon an intervening certification of the board under which the labor organization or individual which is a party to the contract has been superseded as or ceased to be the representative of the employees subject to the provisions of subdivision (a) of Section 1152. The duties so imposed shall not be construed as requiring either party to discuss or agree to any modification of the terms and conditions contained in a contract for a fixed period, if such modification is to become effective before such terms and conditions can be reopened under the provisions of the contract. Any employee who engages in a strike within the 60-day period specified in this subdivision shall lose his status as an employee of the employer engaged in the particular labor dispute, for the purposes of Chapters 4, 5, and 6, inclusive, but such loss of status for such employee shall terminate if and when he is reemployed by such employer.

(e) It shall be an unfair labor practice for any labor organization and any employer to enter into any contract or agreement, express or implied, whereby such employer ceases or refrains or agrees to cease or refrain from handling, using, selling, transporting, or otherwise dealing in any of the products of any other employer, or to cease doing business with any other person, and any contract or agreement entered into heretofore or hereafter containing such an agreement shall be to such extent unenforceable and void.

(f) Nothing in this section shall apply to any labor organization in its representation of non-agricultural employees, nor shall anything in this section apply to any employer in its employment of non-agricultural employees.

CHAPTER 5. REPRESENTATIVES AND ELECTION

1152. (a) Representatives designated or selected for the purposes of collective bargaining by the majority of the employees in a unit appropriate for such purposes shall be the exclusive representatives of all the employees in such unit for the purposes of collective bargaining in respect to rates of pay,

wages, hours of employment, or other conditions of employment. Any individual employee or a group of employees shall have the right at any time to present grievances to their employer and to have such grievances adjusted, without the intervention of the bargaining representative, as long as the adjustment is not inconsistent with the terms of a collective bargaining contract or agreement then in effect, provided that the bargaining representative has been given opportunity to be present at such adjustment.

(b) The board shall decide in each case whether, in order to assure to employees the fullest freedom in exercising the rights guaranteed by this chapter, the unit appropriate for the purposes of collective bargaining shall be the employer unit, craft unit, plant unit or subdivision thereof, provided that the board shall not do any of the following:

(1) Decide that any unit is appropriate for such purposes if such unit includes both professional employees and employees who are not professional employees, unless a majority of such professional employees vote for inclusion in such unit.

(2) Decide that any craft unit is inappropriate for such purposes on the ground that a different unit has been established by a prior board determination, unless a majority of the employees in the proposed craft unit vote against separate representation.

(3) Decide that any unit is appropriate for such purposes if it includes, together with other employees, any individual employed as a guard to enforce against employees and other persons rules to protect property of the employer or to protect the safety of persons on the employer's premises. However, no labor organization shall be certified as the representative of employees in a bargaining unit of guards if such organization admits to membership or is affiliated, directly or indirectly, with an organization which admits to membership of employees other than guards.

(c) (1) The board shall investigate any petition filed, in accordance with such regulations as may be prescribed by the board, by either of the following:

(A) An employee or group of employees or any individual or labor organization acting in their behalf, alleging that a substantial number of employees (i) wish to be represented for collective bargaining and that their employer declines to recognize their representative as the representative defined in subdivision (a), or (ii) assert that the individual or labor organization, which has been certified or is being currently recognized by their employer as the bargaining representative, is no longer a representative as defined in subdivision (a).

(B) An employer, alleging that one or more individuals or labor organizations have presented to him a claim to be recognized as the representative defined in subdivision (a).

If the board has reasonable cause to believe that a question of representation exists, the board shall provide for an appropriate hearing upon due notice. Such hearing may be conducted by an officer or employee of the

regional office, who shall not make any recommendations with respect thereto. If the board finds upon the record of such hearing that such a question of representation exists, it shall direct an election by secret ballot and shall certify the results thereof.

(2) In determining whether or not a question of representation exists, the same regulations and rules of decision shall apply irrespective of the identity of the persons filing the petition or the kind of relief sought and, in no case, shall the board deny a labor organization a place on the ballot by reason of an order with respect to such labor organization or its predecessor not issued in conformity with subdivision (c) of Section 1153.

(3) No election shall be directed in any bargaining unit or any subdivision within which, in the preceding 12-month period, a valid election shall have been held. Employees engaged in an economic strike who are not entitled to reinstatement shall be eligible to vote under such regulations as the board shall find are consistent with the purposes and provisions of this chapter in any election conducted within 12 months after the commencement of the strike. In any election where none of the choices on the ballot receives a majority, a run-off shall be conducted, the ballot providing for a selection between the two choices receiving the largest and second largest number of valid votes cast in the election.

(4) Nothing in this section shall be construed to prohibit the waiving of hearings by stipulation for the purpose of a consent election in conformity with regulations and rules of decision of the board.

(5) In determining whether a unit is appropriate for the purposes specified in subdivision (b), the extent to which the employees have organized shall not be controlling.

(d) Whenever an order of the board made pursuant to subdivision (c) of Section 1153 is based in whole or in part upon facts certified following an investigation pursuant to subdivision (c) and there is a petition for the enforcement or review of such order, such certification and the record of such investigation shall be included in the transcript of the entire record required to be filed under subdivision (e) or (f) of Section 1153, and thereupon the decree of the court enforcing, modifying, or setting aside in whole or in part the order of the board shall be made and entered upon the pleadings, testimony, and proceedings set forth in such transcript.

(e) (1) Upon the filing with the board, by 30 percent or more of the employees in a bargaining unit covered by an agreement between their employer and a labor organization made pursuant to Section 1151(a)(3) of a petition alleging they desire that such authority be rescinded, the board shall take a secret ballot of the employees in such unit and certify the results thereof to such labor organization and to the employer.

(2) No election shall be conducted pursuant to this subdivision in any bargaining unit or any subdivision within which, in the preceding 12-month period, a valid election shall have been held.

CHAPTER 6. PREVENTION OF UNFAIR LABOR PRACTICES

1153. (a) The board is empowered, as hereinafter provided, to prevent any person from engaging in any unfair labor practice listed in Section 1151. This power shall not be affected by any other means of adjustment or prevention that has been or may be established.

(b) Whenever it is charged that any person has engaged in or is engaging in any such unfair labor practice, the board, or any agent or agency designated by the board for such purposes, shall have power to issue and cause to be served upon such person a complaint stating the charges in that respect and containing a notice of hearing before the board or a member thereof, or before a designated agent or agency, at a place therein fixed, not less than five days after the serving of said complaint. However, no complaint shall be issued based upon any unfair labor practice occurring more than six months prior to the filing of the charge with the board and the service of a copy thereof upon the person against whom such charge is made, unless the person aggrieved thereby was prevented from filing such charge by reason of service in the armed forces, in which event the six-month period shall be computed from the day of his discharge. Any such complaint may be amended by the member, agent, or agency conducting the hearing or the board in its discretion at any time prior to the issuance of an order based thereon. The person so complained of shall have the right to file an answer to the original or amended complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaints. In the discretion of the member, agent, or agency conducting the hearing or the board, any other person may be allowed to intervene in the proceeding and to present testimony. Any such proceeding shall, so far as practicable, be conducted in accordance with the rules of evidence applicable in the superior courts of the state under the Evidence Code.

(c) The testimony taken by such member, agent, or agency, or the board in such hearing shall be reduced to writing and filed with the board. Thereafter, in its discretion, the board, upon notice, may take further testimony or hear argument. If, upon the preponderance of the testimony taken, the board shall be of the opinion that any person named in the complaint has engaged in or is engaging in any such unfair labor practice, the board shall state its findings of fact and shall issue and cause to be served on such person an order requiring such person to cease and desist from such unfair labor practice and to take affirmative action, including reinstatement of employees with or without back pay, as will effectuate the policies of this Act. However, where an order directs reinstatement of an employee, back pay may be required of the employer or labor organization, as the case may be, responsible for the discrimination suffered by him and, further, that in determining whether or not a complaint shall issue alleging a violation of Section 1151(a)(1) and (2) and in deciding such cases, the same regulations and rules of decision shall apply irrespective of whether or not the labor organization affected is affiliated with a labor organization,

national or international in scope. Such order may further require such person to make reports from time to time showing the extent to which it has complied with the order. If, upon the preponderance of the testimony taken, the board shall not be of the opinion that the person named in the complaint has engaged in or is engaging in any such unfair labor practice, then the board shall state its findings of fact and shall issue an order dismissing said complaint. No order of the board shall require the reinstatement of any individual as an employee who has been suspended or discharged, or the payment of any back pay, if such individual is suspended or discharged for cause. In case the evidence is presented before a member of the board, or before an examiner or examiners thereof, such member, or examiner or examiners, as the case may be, shall issue and cause to be served on the parties to the proceedings a proposed report, together with a recommended order, which shall be filed with the board and, if no exceptions are filed within 20 days after service thereof upon such parties, or within such further period as the board may authorize, such recommended order shall become the order of the board and become effective as therein prescribed. Upon the effective date of this chapter, any agricultural employer who has previously been ordered by the board, pursuant to former California Labor Code Section 1160.3, to make its employees whole, as a result of a refusal to bargain, shall hereafter be relieved of its obligation to pay said amount, or any additional amounts still currently owed, if there is a question pending as to either the existence or amount of the make whole remedy before the board or any court of the State of California or the United States.

(d) Until the record in a case shall have been filed in a court, as hereinafter provided, the board may, at any time upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it.

(e) The board shall have power to petition any court of appeal of the state or, if all the courts of appeal to which application may be made are on vacation, any superior court of the state, within any district or county respectively, wherein the unfair labor practice in question occurred or wherein such person resides or transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order and shall file in the court the record of the proceedings. Upon the filing of such petition, the court shall cause notice thereof to be served upon such person and, thereupon, shall have jurisdiction of the proceeding and of the question determined therein and shall have the power to grant such temporary relief or restraining order as it deems just and proper and to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside, in whole or in part, the order of the board. No objection that has not been urged before the board, its member, agent, or agency shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.

The findings of the board with respect to questions of fact, if supported by substantial evidence on the

record considered as a whole, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the board, its member, agent, or agency, the court may order such additional evidence to be taken before the board, its member, agent, or agency and to be made a part of the record. The board may modify its findings as to the facts or make new findings by reason of additional evidence so taken and filed, and it shall file such modified or new findings, which findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive and shall file its recommendations, if any, for the modification or setting aside of its original order.

Upon the filing of the record with it, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the appropriate court of appeal if application was made to the superior court, as hereinabove provided, and by the Supreme Court.

(f) Any person aggrieved by a final order of the board granting or denying, in whole or in part, the relief sought may obtain a review of such order in any court of appeal in the district wherein the unfair labor practice in question was alleged to have been engaged in or wherein such person resides or transacts business, or in the Court of Appeal for the Third District, by filing in such a court a written petition praying that the order of the board may be modified or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the board and, thereupon, the board shall file in the court the certified record in the proceeding.

Upon the filing of such petition, the court shall proceed in the same manner as in the case of an application by the board under subdivision (e) and shall have the same jurisdiction to grant to the board such temporary relief or restraining order as it deems just and proper and, in like manner, to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside, in whole or in part, the order of the board. The findings of the board, with respect to questions of fact if supported by substantial evidence on the record considered as a whole, shall, in like manner, be conclusive.

(g) The commencement of proceedings under subdivision (e) or (f) shall not, unless specifically ordered by the court, operate as a stay of the board's order.

(h) When granting appropriate temporary relief or a restraining order, or making and entering a decree enforcing, modifying, and enforcing as so modified, or setting aside, in whole or in part, an order of the board, as provided in this section, the jurisdiction of courts sitting in equity shall not be limited by Section 527.3 of the Code of Civil Procedure.

(i) Petitions filed under this chapter shall be heard expeditiously and, if possible, within 10 days after they have been docketed.

(j) The board shall have power, upon issuance of a complaint as provided in subdivision (b) charging that any person has engaged in or is engaging in an unfair labor practice, to petition the superior court in any county wherein the unfair labor practice in question is alleged to have occurred, or wherein such person resides or transacts business, for appropriate temporary relief or restraining order. Upon the filing of any such petition, the court shall cause notice thereof to be served upon such person and, thereupon, shall have jurisdiction to grant to the board such temporary relief or restraining order as it deems just and proper.

(k) Whenever it is charged that any person has engaged in an unfair labor practice within the meaning of Section 1151(c)(4)(iv), the board is empowered and directed to hear and determine the dispute out of which such unfair labor practice shall have arisen, unless, within 10 days after notice that such charge has been filed, the parties to such dispute submit to the board satisfactory evidence that they have adjusted, or agreed upon methods for the voluntary adjustment of, the dispute. Upon compliance by the parties to the dispute with the decision of the board, or upon such voluntary adjustment of the dispute, such charge shall be dismissed.

(l) Whenever it is charged that any person has engaged in an unfair labor practice within the meaning of subparagraphs (i), (ii), or (iii) of Section 1151(c)(4), or Section 1152(f) or 1152(e)(7), the preliminary investigation of such charge shall be made forthwith and given priority over all other cases, except cases of like character in the office where it is filed or to which it is referred. If, after such investigation, the officer or regional attorney to whom the matter may be referred has reasonable cause to believe such charge is true and that a complaint should issue, he shall, on behalf of the board, petition any superior court within any county where the unfair labor practice in question has occurred, is alleged to have occurred, or wherein such person resides or transacts business, for appropriate injunctive relief pending the final adjudication of the board with respect to such matter.

Upon the filing of any such petition, the superior court shall have jurisdiction to grant such injunctive relief or temporary restraining order as it deems just and proper, notwithstanding any other provision of law. No temporary restraining order shall be issued without notice, unless a petition alleges that substantial and irreparable injury to the charging party will be unavoidable and such temporary restraining order shall be effective for no longer than five days and will become void at the expiration of such period. Also, such officer or regional attorney shall not apply for any restraining order under Section 1152(c)(7), if a charge against the employer under Section 1151(a)(2) has been filed and, after the preliminary investigation, he has reasonable cause to believe that such charge is true and that a complaint should issue. Upon filing of any such petition, the courts shall cause notice thereof to be served upon any person involved in the charge and such person, including the charging

party, shall be given an opportunity to appear by counsel and present any relevant testimony.

For the purposes of this subdivision, superior courts shall be deemed to have jurisdiction of a labor organization (1) in the county in which such organization maintains its principal office or (2) in any county in which its duly authorized officers or agents are engaged in promoting or protecting the interests of employee members. The service of legal process upon such officer or agent shall constitute service upon the labor organization and make such organization a party to the suit. In situations where such relief is appropriate, the procedure specified herein shall apply to charges with respect to Section 1152(c)(4)(iv).

(m) Whenever it is charged that any person has engaged in an unfair labor practice within the meaning of subdivision (a)(3) or (c)(2) of Section 1152, such charge shall be given priority over all other cases, except cases of like character in the office where it is filed or to which it is referred and cases given priority under subdivision (1).

CHAPTER 7. INVESTIGATORY POWERS

1154. For the purpose of all hearings and investigations, which, in the opinion of the board, are necessary and proper for the exercise of the powers vested in it by Chapters 5 and 6, the following provisions shall apply:

(a) The board, or its duly authorized agents or agencies, shall, at all reasonable times, have access to, for the purpose of examination and the right to copy any evidence of, any person being investigated or proceeded against that relates to any matter under investigation or in question. The board, or any member thereof, shall, upon application of any party to such proceedings, forthwith issue to such party subpoenas requiring the attendance and testimony of witnesses or the production of any evidence in such proceeding or investigation requested in such application. Within five days after the service of subpoena on any person requiring the production of any evidence in his possession or under his control, such person may petition the board to revoke, and the board shall revoke, such subpoena if, in its opinion, the evidence whose production is required does not relate to any matter under investigation, or any matter in question in such proceedings, or if, in its opinion, such subpoena does not describe with sufficient particularity the evidence whose production is required. Any member of the board, or any agent or agency designated by the board for such purposes, may administer oaths and affirmations, examine witnesses, and receive evidence. Such attendance of witnesses and the production of such evidence may be required from any place in the state at any designated place of hearing.

(b) In case of contumacy or refusal to obey a subpoena issued to any person, any superior court of the state, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which the person guilty of contumacy or refusal to obey is found or resides or transacts business

shall, upon application by the board, have jurisdiction to issue to such person an order requiring such person to appear before the board, its member, agent, or agency, there to produce evidence, if so ordered, or there to give testimony touching the matter under investigation or in question. Any failure to obey such order of the court may be punished by the court as a contempt thereof.

(c) Complaints, orders, and other process and papers of the board, its member, agent, or agency may be served either personally or by registered mail, by telegraph or by leaving a copy thereof at the principal office or place of business of the person required to be served. The verified return by the individual so serving the same setting forth the manner of such service shall be proof of the same, and the return post office receipt or telegraph receipt therefor when registered and mailed or telegraphed as provided within this subdivision shall be proof of service of the same. Witnesses summoned before the board, its member, agent, or agency shall be paid the same fees and mileage that are paid witnesses in the courts of the state, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the state.

(d) All process of any court to which application may be made under this chapter may be served in the county wherein the defendant or other person required to be served resides or may be found.

(e) The several departments and agencies of the state, when directed by the Governor, shall furnish the board, upon its request, all records, papers, and information in their possession relating to any matter before the board.

(f) No person shall be excused from attending and testifying or from producing books, records, correspondence, documents, or other evidence in obedience to the subpoena of the Board, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(g) Any person who shall willfully resist, prevent, impede, or interfere with any member of the board or any of its agents or agencies in the performance of duties pursuant to this part shall be guilty of a misdemeanor and shall be punished by a fine of not more than five thousand dollars (\$5,000).

CHAPTER 8. LIMITATIONS/JURISDICTION OF BOARD/AMENDMENTS TO ACT

1155. (a) Nothing in this part, except as specifically provided for herein, shall be construed so as either to interfere with or impede or diminish in any way the right to strike, or to

affect the limitations or qualifications on that right.

(b) Nothing in this part shall be construed to prohibit any individual employed as a supervisor from becoming or remaining a member of a labor organization, but no employer subject to this part shall be compelled to deem individuals defined herein as supervisors as employees for the purpose of any law, either national or local, relating to collective bargaining.

(c) The board, in its discretion, may, by rule of decision or by published rules adopted pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, decline to assert jurisdiction over any labor dispute involving any class or category of employers where, in the opinion of the board, the effect of such labor dispute is not sufficiently substantial to warrant the exercise of its jurisdiction.

(d) If any other act of the Legislature conflicts with the provisions of this part, this part shall prevail.

(e) (1) No provision of this part shall be deemed to make an unfair labor practice any act which was performed prior to the effective date of this part which did not constitute an unfair labor practice prior thereto, and the provisions of subdivisions (a)(3) and (b)(2) of Section 1151 shall not make an unfair labor practice the performance of any obligation under a collective bargaining agreement entered into prior to the effective date of this part, if the performance of such obligation would not have constituted an unfair labor practice under subdivision (c) of Section 1153 or subdivision (b) of Section 1154 prior to the effective date of this part, unless such agreement was renewed or extended subsequent thereto.

(2) No provisions of this part shall affect any certification of representatives or any determination as to the appropriate collective bargaining unit, which was made under Chapter 5 (commencing with Section 1152) prior to the effective date of this part, until one year after the date of such certification or if, in respect of any such certification, a collective bargaining contract was entered into prior to the effective date of this part, until the end of the contract period or until one year after such date, whichever first occurs.

CHAPTER 9. LIABILITIES OF AND RESTRICTIONS ON LABOR AND MANAGEMENT

1156. (a) Suits for violation of contracts between an agricultural employer and an agricultural labor organization representing agricultural employees as defined in this part, or between any such labor organizations, may be brought in any superior court of the state having jurisdiction of the parties,

without respect to the amount in controversy.

(b) Any labor organization which represents agricultural employees and any agricultural employer as defined in this part shall be bound by the acts of its agents. Any such labor organization may sue or be sued as an entity and in behalf of the employees whom it represents in the courts of the state. Any money judgment against a labor organization in a superior court of the state shall be enforceable only against the organization as an entity and against its assets and shall not be enforceable against any individual member of his assets.

(c) For the purpose of actions and proceedings by or against labor organizations in the superior courts of the state, superior courts shall be deemed to have jurisdiction of a labor organization in the county in which such organization maintains its principal office, or in any county in which its duly authorized officers or agents are engaged in representing or acting for employee members.

(d) The service of summons, subpoena, or other legal process of any superior court upon an officer or agent of a labor organization, in his capacity as such, shall constitute service upon the labor organization.

CHAPTER 10. RESTRICTIONS ON PAYMENTS TO EMPLOYEE REPRESENTATIVES

1157. (a) It is unlawful for any employer or association of employers, or any person who acts as a labor relations expert, adviser, or consultant to any employer, or who acts in the interest of an employer to pay, lend, or deliver, or agree to pay, lend, or deliver, any money or other thing of value to any of the following:

- (1) Any representative of any of his employees.
- (2) Any labor organization, or any officer or agent thereof, which represents, seeks to represent, or would admit to membership, any of the employees of such employer.
- (3) Any employee or group or committee of employees of such employer in excess of their normal compensation for the purpose of causing such employee or group or committee, directly or indirectly, to influence any other employee in the exercise of the right to organize and bargain collectively through representatives of their own choosing.

(4) Any officer or agent of a labor organization with intent to influence him in respect to any of his actions, decisions, or duties as a representative of employees.

(b) It is unlawful for any person to request, demand, receive, or accept, or agree to receive or accept, any payment, loan, or delivery of any money or other thing of value prohibited by subdivision (a).

(c) The provisions of this section do not apply to any of the following:

- (1) Any money or other thing of value payable by an employer to any of his employees or agents whose established duties include acting openly for such employer in matters of labor relations or personnel administration, or to any representative

of his employees, or to any officer or employee of a labor organization, who is also an employee or former employee of such employer, as compensation for or by reason of his service as an employee of such employer.

(2) The payment or delivery of any money or other thing of value in satisfaction of a judgment of any court, or a decision or award of an arbitrator or impartial chairman, or in compromise, adjustment, settlement, or release of any claim, complaint, grievance, or dispute in the absence of fraud or duress.

(3) The sale or purchase of an article or commodity at the prevailing market price in the regular course of business.

(4) Money deducted from the wages of employees in payment of membership dues in a labor organization, provided that the employer has received from each employee, on whose account such deductions are made, a written assignment which shall not be irrevocable for a period of more than one year, or beyond the termination date of the applicable collective bargaining agreement, whichever occurs sooner.

(5) Money or other thing of value paid to a trust fund established by such representative for the sole and exclusive benefit of the employees of such employer, and their families and dependents (or of such employees, families, and dependents jointly with the employees of other employers making similar payments, and their families and dependents), provided that the following conditions are met:

(A) Such payments are held in trust for the purpose of paying, either from principal or income or both, for the benefit of employees, their families and dependents for medical or hospital care, pensions on retirement or death of employees, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, or unemployment benefits or life insurance, disability and sickness insurance, or accident insurance.

(B) The detailed basis on which such payments are to be made is specified in a written agreement with the employer, and employees and employers are equally represented in the administration of such fund, together with such neutral persons as the representatives of the employers and the representatives of the employees may agree upon. In the event the employer and employee groups deadlock on the administration of such fund and there are no neutral persons empowered to break such deadlock, such agreement provides that the two groups shall agree on an impartial umpire to decide such dispute. In the event of their failure to agree within a reasonable length of time, the impartial umpire to decide such dispute shall, on petition of either group, be appointed by the superior court of the state for the county where the trust fund has its principal office. The written agreement shall also contain provisions for an annual audit of the trust fund, a statement of the results of which shall be available for inspection by interested persons at the principal office of the trust fund and at such other places as may be designated in such written agreement.

(C) Such payments as are intended to be used for the purpose of providing pensions or annuities for employees are made to a separate trust which provides that the funds held therein cannot be used for any purpose other than paying such pensions or annuities.

(6) Money or other thing of value paid by an employer to a trust fund established by such representative for the purpose of pooled vacation, holiday, severance or similar benefits, or defraying costs of apprenticeship or other training programs, provided that the requirements of subparagraph (B) of paragraph (5) shall apply to such trust funds.

(7) Money or other thing of value paid by any employer to a pooled or individual trust fund established by such representative for the purpose of either of the following:

(A) Scholarships for the benefit of employees, their families, and dependents for study at educational institutions.

(B) Child care centers for pre-school and school-age dependents of employees. No labor organization or employer shall be required to bargain on the establishment of any such trust fund, and refusal to do so shall not constitute an unfair labor practice. The requirements of subparagraph (B) of paragraph (5) shall apply to such trust funds.

(8) Money or other thing of value paid by any employer to a trust fund established by such representative for the purpose of defraying the costs of legal services for employees, their families, and dependents for counsel or plan of their choice. The requirements of subparagraph (B) of paragraph (5) shall also apply to such trust fund. No such legal service shall be furnished:

(A) To initiate any proceeding directed against any such employer or its officers or agents, except in workers' compensation cases, or against such labor organization, or its parent or subordinate bodies, or their officers or agents, or against any other employer or labor organization, or their officers or agents in any matter arising under this part.

(B) In any proceeding where a labor organization would be prohibited from defraying the costs of legal services by the provisions of the federal Labor-Management Reporting and Disclosure Act of 1959.

(9) Money or other thing of value paid by an employer to a plant, area or industry-wide labor management committee established for one or more of the purposes set forth in subdivision (b) of Section 5 of the federal Labor-Management Cooperation Act of 1978.

(d) Any person who willfully violates any of the provisions of this section shall, upon conviction thereof, be guilty of a misdemeanor and be subject to a fine of not more than ten thousand dollars (\$10,000) or to imprisonment for not more than one year, or both.

(e) The superior courts of the state shall have jurisdiction, for cause shown, to restrain violations of this section without regard to the provisions of Section 527.3 of the Code of Civil Procedure.

CHAPTER 11. BOYCOTTS AND OTHER UNLAWFUL COMBINATIONS

1158. It is unlawful for any labor organization to engage in any activity or conduct defined as an unfair labor practice in Section 1151(b)(4). Any person who is injured in his business or property by reason of any violation of this section may sue therefor in any superior court of the state subject to the limitations and provisions of Section 1158 without respect to the amount in controversy and shall recover the damages sustained by him and the cost of the suit.

This -- Amendment or repeal of chapter; procedures.

This chapter may be amended only by the procedures set forth in this section. If any portion of subsection (a) is declared invalid, then subsection (b) shall be the exclusive means of amending or repealing this chapter.

(a) This Chapter may be amended only to further its purposes and only by statute, passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring and signed by the Governor, if at least 20 days prior to passage in each house the bill in its final form has been printed and made available for public inspection.

(b) This chapter may be amended or repealed by a statute that becomes effective only when approved by the electors.

Fourth -- Severability

If any provision of this chapter, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this chapter to the extent it can be given effect, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this end the provisions of this chapter are severable.

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

(Here set forth the title and summary prepared by the Attorney General. This title and summary must also be printed across the top of each page of the petition whereon signatures are to appear.)

To the Honorable Secretary of State of California
We, the undersigned, registered, qualified voters of California, residents of _____ County (or City and County), hereby propose amendments to the Labor Code, relating to agricultural labor-management relations, and petition the Secretary of State to submit the same to the voters of California for their adoption or rejection at the next succeeding general election or at any special statewide election held prior to that general election or otherwise provided by law. The proposed statutory amendments read as follows:

First -- That Sections 1140 through 1166.3, inclusive, of the Labor Code are repealed.

Second -- That Chapters 1 through 11 (commencing with Section 1140) are added to Part 3.5 of Division 2 of Title 1 of the Labor Code, as follows:

Please reply to



Sacramento Address:
State Capitol
95814
(916) 445-3353



District Office Addresses:
415 Main Street
Woodland, CA 95695
(916) 662-7315



1509 2nd Street
Suite 315
Napa, CA 94558
(707) 253-7212



726 Mendocino Avenue
Santa Rosa, CA 95401
(707) 523-1502



2400 Washington Ave.
Suite 410
Redding, CA 96001
(916) 244-4300

State Senator

Jim Nielsen

Fourth District

Colusa, Glenn, Lake, Napa, Shasta, Sonoma, Tehama, Trinity and Yolo Counties

COMMITTEES:

Agriculture and Water Resources
Education
Energy and Public Utilities
Natural Resources and Wildlife
Vice Chairman

Joint Committee on
Fairs Allocation and
Classification

Senate Rural Caucus
Vice Chairman

Select Committee on
Forest Land Issues

Select Committee on
State Procurement and
Expenditure Practices

Subcommittee on
Education Reform

State Allocation
Board

November 23, 1983

The Honorable John Van de Kamp
Attorney General of California
1515 K Street, Suite 511
Sacramento, CA 95814

Attn: Mr. Robert Burton,
Deputy Attorney General

Dear Mr. Attorney General:

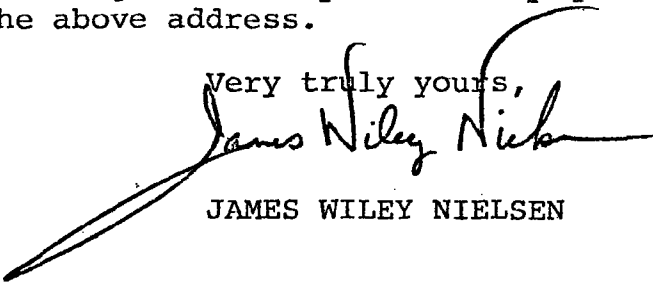
As a registered voter in Yolo County, I am submitting herewith for preparation of a title and summary, a proposed initiative statutory amendment, amending the Agricultural Labor Relations Act.

I am registered at the following address:

1742 Brown Avenue
Woodland, California

Also, please find enclosed a check in the amount of \$200.00, the requisite filing fee. If you have any questions please contact me at the above address.

Very truly yours,



JAMES WILEY NIELSEN

Enclosures

JOHN K. VAN DE KAMP
Attorney General

State of California
DEPARTMENT OF JUSTICE



1515 K STREET, SUITE 511
SACRAMENTO 95814
(916) 445-9555

January 25, 1984

James Wiley Nielsen
1742 Brown Avenue
Woodland, California 95695

Re: Initiative Title and Summary.
Subject: Agricultural Labor-Management Relations
Our File No.SA83RF0034

Pursuant to your request, we have prepared the attached title and summary of the chief purposes and points of the above identified proposed initiative. A copy of our letter to the Secretary of State, as required by Elections Code sections 3503 and 3513, our declaration of mailing, and the text of your proposal that was considered is attached.

The Secretary of State will be sending you shortly a copy of the circulating and filing schedule for your proposal that will be issued by that office.

Please send us a copy of the petition after you have it printed. This copy is not for our review or approval, but to supplement our file in this matter.

Very truly yours,

JOHN K. VAN DE KAMP
Attorney General

Robert Burton
Deputy Attorney General

Attachment

(RF-9, 6/83)

DECLARATION OF MAILING

The undersigned Declarant, states as follows:

I am over the age of 18 years and not a proponent of the within matter; my place of employment and business address is 1515 K Street, Suite 511, Sacramento, California 95814.

On the date shown below, I mailed a copy or copies of the attached letter to the proponents, by placing a true copy thereof in an envelope addressed to the proponents named below at the addresses indicated, and by sealing and depositing said envelope or envelopes in the United States mail at Sacramento, California, with postage prepaid. There is delivery service by United States mail at each of the places so addressed, or there is regular communication by mail between the place of mailing and each of the places so addressed.

Date of Mailing: January 25, 1984

Subject: Agricultural Labor-Management Relations Act

Our File No.: SA83RF0034

Name of Proponent(s) and Address(es):

JAMES WILEY NIELSEN
1742 Brown Avenue
Woodland, California 95695

I declare under penalty of perjury that the foregoing is true and correct.

Executed at Sacramento, California on January 25, 1984.


MARSHA L. BIERER
Declarant